

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOUGLAS WAYNE PERRY,

Plaintiff,
vs.

No. CIV S-04-0868 JAM EFB PS

PAUL ZUPAN, et al.,

Defendants.

ORDER

It has come to the attention of this court that plaintiff's counsel, Derk Wayne Schutmaat, may no longer be a member in good standing with the State Bar of California and may currently be ineligible to practice law.¹ If so, counsel is precluded from appearing in this court and will be deemed to have withdrawn from this case. *See* E.D. Cal. L.R. 83-180. Accordingly, within ten days of the filing date of this order, counsel shall show cause why he should not be deemed to have withdrawn as attorney of record for plaintiff in this case.

Even if his counsel withdraws, plaintiff may proceed in this action if, within forty-five days from the filing date of this order, plaintiff: (1) files a substitution of counsel pursuant to E.D. Cal. L.R. 83-182(g) (plaintiff may file a substitution on his own, without requiring the signature of Mr. Schutmaat), or (2) informs the court that he will continue to maintain this action

¹ *See* http://members.calbar.ca.gov/search/member_detail.aspx?x=163633.

1 by representing himself *in propria persona* (“*pro se*”). Failure of plaintiff to timely so inform
2 the court will be construed as a request for voluntary dismissal of this action pursuant to Fed. R.
3 Civ. P. 41(a)(2).

4 Mr. Schutmaat is directed personally to serve upon plaintiff a copy of this order within
5 five days of its filing and, within five days thereafter, to file a certificate of service showing that
6 plaintiff was, in fact, served. Mr. Schutmaat is reminded of this court’s authority to impose
7 sanctions upon counsel for failure to notify the court of a change in Bar membership,
8 unauthorized practice before this court, and failure to meet standards of professional conduct.
9 See E.D. Cal. L. R. 83-180(c), (d), and (e). The court will retain jurisdiction on these matters
10 until the conclusion of this case.

11 In summary, IT IS HEREBY ORDERED that:

12 1. Plaintiff’s counsel shall, within five days of the filing date of this order, personally
13 serve upon plaintiff a copy of this order and, within five days thereafter, file a certificate of such
14 service;

15 2. Plaintiff’s counsel shall, within ten days of the filing date of this order, show cause
16 why he should not be deemed to have withdrawn as attorney of record for plaintiff in this case;
17 and,

18 3. If plaintiff’s counsel is withdrawn, plaintiff may proceed in this action if, within forty-
19 five days from the filing date of this order, plaintiff (1) files a substitution of counsel, or (2)
20 informs the court that he will represent himself *in pro se*. Failure of plaintiff to so inform the
21 court will be construed as a request for voluntary dismissal of this action.

22 SO ORDERED.

23 DATED: October 2, 2008.

24 
EDMUND F. BRENNAN
25 UNITED STATES MAGISTRATE JUDGE
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